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10/783,549	02/20/2004	Christopher L. Johnson	21029.29003	7422

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EXAMINER

NGUYEN, XUAN LAN T

ART UNIT PAPER NUMBER

3683

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/783,549

Applicant(s)

JOHNSON ET AL.

Examiner

Lan Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: drawings

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 10/18/04. These drawings are NOT approved because of following reasons:

- Reference numbers "10, 12 and 22" are not in the drawings.
- Reference numbers "1, 3, 4, 5, 7 and 16" are not mentioned in the specification.
- Reference number "52" on the left of figure 1 needs to be deleted.
- In figures 1 and 2, contoured flat springs 14 do not look flat. In fact, they look like having circular cross sections.
- There is not a description of figure 2 in the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

- The abstract of the disclosure is objected to because of legal phraseology used within the Abstract. Correction is required. See MPEP § 608.01(b).

3. The use of the tradename/trademark "Dacron" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 3 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 3 and 7 contain the trademark/trade name Dacron. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe laminating materials and, accordingly, the identification/description is indefinite.

6. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 claims the "attachment point" to be made of carbon fiber. This is awkward since an attachment point is only a reference point in space; and normally is not used to indicate a physical structural element to be made out of a certain material.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Nicholls.

Re: claim 1, Nicholls shows a shock absorber, as in the present invention, comprising: a first attachment point at 4b; a contoured flat spring 20 having a first end 20b and a second end 20a wherein said first end 20b is attached to said first attachment point at 4b; a support member 8 having a first end at 4b and a second end at 4a wherein said first end is attached to said spring, as shown, and said second end is attached to a second attachment point 4b; and a flexible first strap 36 having a first end and a second end wherein said first end is connected to said spring first end and said second end is connected to said spring second end. Note that the term “connected” has been interpreted broadly in that strap 36 is connected to the spring 20 in order for the shock absorber to be fully operative.

Re: claim 2, Nicholls shows in column 4, lines 50-55, an alternative embodiment of the shock absorber wherein a second flexible strap is used to connect the spring 20 to the support member 8 should the shock absorber is used on the rear side of the seat 4 instead of the front of the seat 4 as illustrated in figure 1. Note that the term “connected” has been interpreted broadly in that said second flexible strap is connected

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to the support member and the first attachment point via a number of elements in between in order for the shock absorber to be fully operative.

Re: claim 5, Nicholls shows a bicycle seat shock absorber, as in the present invention, comprising: a shaft 16 for attaching to a bicycle frame; a contoured flat spring 20 having a first end 20a and a second end 20b wherein said first end 20a is attached to said shaft 16; a support member 8 having a first end and a second end wherein said first end is attached to said spring, as shown, and said second end is attached to said bicycle seat 4; and a flexible first strap 36 having a first end and a second end wherein said first end is connected to said spring first end and said second end is connected to said spring second end. Note that the term "connected" has been interpreted broadly in that strap 36 is connected to the spring 20 in order for the shock absorber to be fully operative.

Re: claim 6, Nicholls shows in column 4, lines 50-55, an alternative embodiment of the shock absorber wherein a second flexible strap is used to connect the spring 20 to the support member 8 should the shock absorber is used on the rear side of the seat 4 instead of the front of the seat 4 as illustrated in figure 1. Note that the term "connected" has been interpreted broadly in that said second flexible strap is connected to the support member and the shaft via a number of elements in between in order for the shock absorber to be fully operative.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholls in view of Luck.

Nicholls' shock absorber, as rejected in claims 2 and 6, respectively, lacks the use of Dacron in the flexible straps. Luck teaches the concept of reinforcing a rubber strap 3 with Dacron fibers, in column 3, lines 31-35, in order to strengthen the rubber strap while maintaining a good capability of gripping from the rubber in the strap. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Nicholls' shock absorber to have employed a rubber strap reinforced with Dacron in order to strengthen the rubber strap while maintaining a good capability of gripping as taught by Luck in column 3, lines 31-35.

11. Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholls in view of Simon et al.

Nicholls' shock absorber, as rejected in claims 1 and 5, respectively, lacks the use of carbon fiber in the shaft and the support member. Simon et al. teach the concept of using carbon fiber in a support member 6 in column 5, lines 3-5, since carbon fiber is known for its excellent capability in dampening vibration while being light weight and durable. It would have been obvious to one of ordinary skill in the art at the time the



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invention was made to have modified Nicholls' shock absorber to comprise a support member made of carbon fiber; since carbon fiber is known for its excellent capability in dampening vibration while being light weight and durable as taught by Simon in column 5, lines 3-5. Furthermore, the Examiner takes an Official Notice that it is old and well known in the art of bicycle to construct a shaft with carbon fiber; and would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed carbon fiber to construct the shaft of Nicholls since carbon fiber is readily available and regularly used in such element to further absorb vibration while offering strength, durability and a reduced weight.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fritz, Deardorff et al., Papst, Allsop et al., Girard and Erli are cited for various other shock absorbers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is 703-308-8347. The examiner can normally be reached on M-F, 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 703-308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lan Nguyen  
Patent Examiner  
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3/10/05



FIG. 1

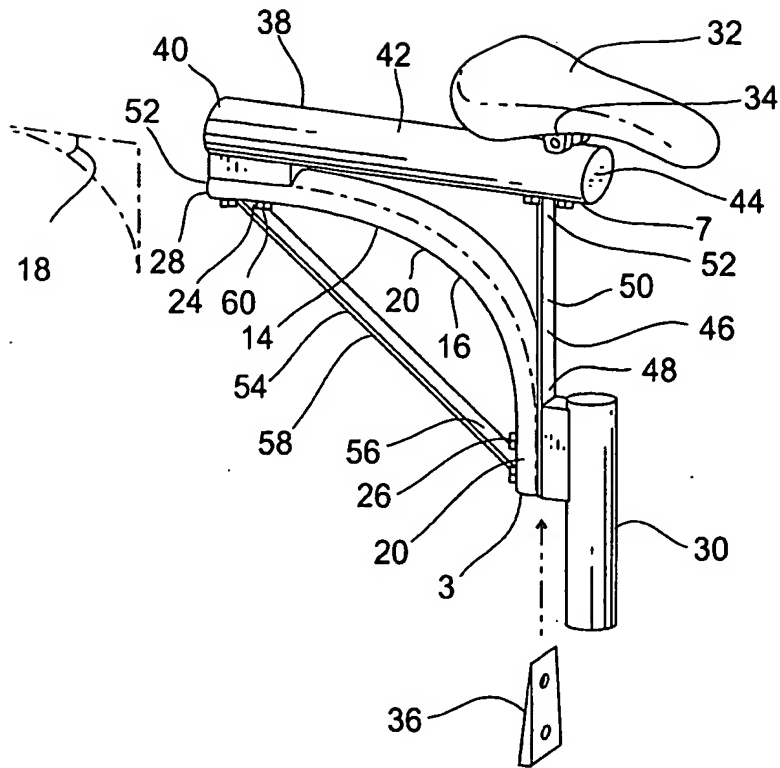
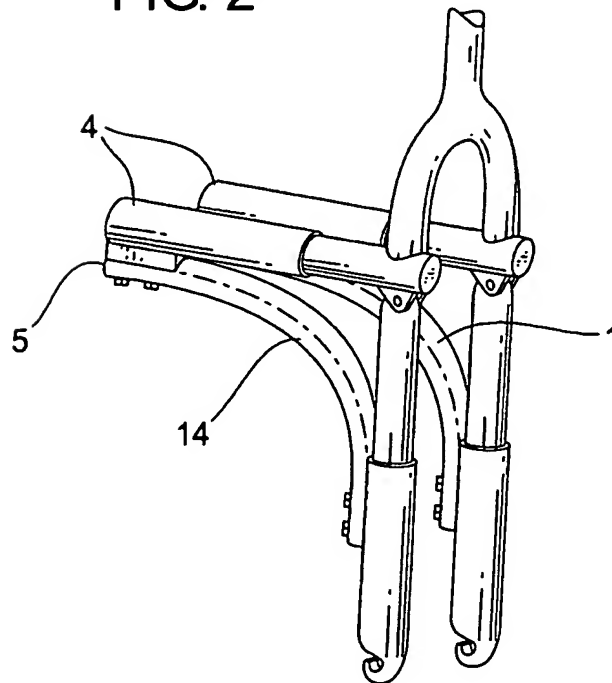


FIG. 2



NOT approved

XLN

3/10/05